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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,785	11/21/2003	R. Winfield Thomas	TFMH.110243	1533

7590 11/02/2004

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EXAMINER

DUNWOODY, AARON M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/718,785

Applicant(s)

THOMAS ET AL.

Examiner

Aaron M Dunwoody

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 6, 9, 12 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8, 10 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/25/2004
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 6, 9, 12 and 13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/1/2004.

### ***Priority***

Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) filed 2/25/2004 is being considered by the examiner; however, the information disclosure statement requires a legible copy of each foreign patent.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 208a, 208b, 509, 511, 519, 521 and 1510. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the

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applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 1009 and 1510b. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Double Patenting***

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claim 1 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of copending Application No. 10/121,628. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, 8, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 5882046, Thomas.

In regards to claim 1, in Figures 9a and 9b, Thomas discloses a flexible conduit structure for connecting first and second pipes, comprising:

a first conduit section (912a) having a body portion presenting a corrugation having a predetermined first diameter and an end portion for connection with the first pipe;

a second conduit section (912b) having a body portion presenting a plurality of corrugations each having a diameter greater than the first diameter and one corrugation having a diameter substantially equal to the first diameter, the first and second conduit sections interfitting such that the corrugation of the first section mates with the one corrugation of the second section in a manner allowing relative rotation between the first

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and second conduit sections with the mating corrugations effecting a seal during such rotation; and

an end portion of the second conduit section for connection with the second pipe.

In regards to claim 2, in Figures 9a and 9b, Thomas discloses the one corrugation of the second section being an end corrugation located at one end of the plurality of corrugations.

In regards to claim 3, in Figures 9a and 9b, Thomas discloses a second end corrugation of the second section located at an end of the plurality of corrugations opposite the one end thereof, the second end corrugation having a diameter substantially equal to the first diameter.

In regards to claim 4, in Figures 9a and 9b, Thomas discloses the body portion of the first conduit section fitting inside of the second conduit section and extending inside of substantially all of the plurality of corrugations on the second section.

In regards to claim 5, in Figures 9a and 9b, Thomas discloses the body portion of the first conduit section fitting inside of the second conduit section and extending inside of substantially all of the plurality of corrugations on the second section.

In regards to claim 7, in Figures 9a and 9b, Thomas discloses a second small corrugation on the second conduit section having a diameter substantially equal to the one small corrugation and located such that the plurality of corrugations are between the one small corrugation and the second small corrugation.

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In regards to claim 8, in Figures 9a and 9b, Thomas discloses the body portion of the first conduit section fitting inside of the second conduit section and extending inside of substantially all of the plurality of corrugations on the second section.

In regards to claim 10, in Figures 9a and 9b, Thomas discloses a flexible conduit structure for connecting first and second pipes, comprising:

a first conduit section having a body portion presenting a single small corrugation having a first diameter and an end portion for connection with the first pipe;

a second conduit section having a body portion presenting a pair of small corrugations each having a diameter substantially equal to the first diameter and a plurality of large corrugations each having a diameter greater than the first diameter, the large corrugations being located between the pair of small corrugations;

the first and second conduit sections interfitting such that the single small corrugation on the first section mates with one of the small corrugations in a manner to effect a seal therewith while allowing relative rotation between the first and second conduit sections; and

an end portion of the second conduit section for connection with the second pipe.

In regards to claim 11, in Figures 9a and 9b, Thomas discloses the body portion of the first conduit section fitting inside of the second conduit section and extending inside of substantially all of the large and small corrugations on the second section.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure because it illustrates the inventive concept of the invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M Dunwoody whose telephone number is 703-306-3436. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P Stodola can be reached on 703-306-5771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Aaron M Dunwoody  
Examiner  
Art Unit 3679

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